

MEM
F.# 2019R00921

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

SANTOS ANTONIO DIAZ GUEVARA,

Defendant.

- - - - - X

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ JUL 10 2019 ★
LONG ISLAND OFFICE

AFFIDAVIT AND COMPLAINT
IN SUPPORT OF AN ARREST
WARRANT
(T. 8, U.S.C., §§ 1326(a) and
1326(b)(2))

MJ 19- 625

EASTERN DISTRICT OF NEW YORK, SS:

KENNETH LOPEZ, being duly sworn, deposes and states that he is a
Deportation Officer with the Department of Homeland Security, United States Immigration and
Customs Enforcement, duly appointed according to law and acting as such.

Upon information and belief, there is probable cause to believe that on or about
March 3, 2019, within the Eastern District of New York and elsewhere, the defendant
SANTOS ANTONIO DIAZ GUEVARA, being an alien who had previously been arrested
and convicted of an aggravated felony, and was thereafter excluded and removed from the
United States, and who had not made an application for admission to the United States to
which the Secretary of the Department of Homeland Security, successor to the Attorney
General of the United States, had expressly consented, was found in the United States.

(Title 8, United States Code, Sections 1326(a) and 1326(b)(2)).

The source of your deponent's information and the grounds for his belief are as follows:¹

1. I am a Deportation Officer with United States Immigration and Customs Enforcement ("ICE") and have been involved in the investigation of numerous cases involving the illegal reentry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation, my review of the ICE investigative file, including the defendant's criminal history record, and from reports of other law enforcement officers involved in the investigation.

2. On March 4, 2005, the defendant SANTOS ANTONIO DIAZ GUEVARA, a citizen and national of El Salvador, was convicted in Fairfax County, Virginia, of two-counts of Sexual Battery for violations of Va. Code Ann. §§ 18.2-67.1 and 18.2-67.4, respectively.² The victim in the case was an eight year old child. The defendant's fingerprints were taken in connection with his March 4, 2005 conviction.

3. On or about October 21, 2005, subsequent to his aggravated felony conviction, the defendant, SANTOS ANTONIO DIAZ GUEVARA, was removed from the United States. Prior to his removal DIAZ GUEVARA was fingerprinted. The fingerprints taken in connection with the March 4, 2005 conviction and the October 21, 2005 removal, were subsequently compared by an ICE Officer trained and certified by the Federal Bureau of

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

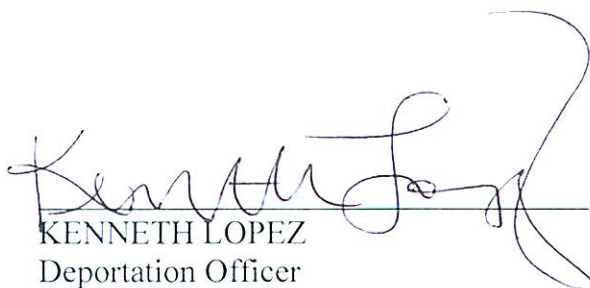
² Based on Ganzhi v. Holder, 624 F.3d 23, 28-30 (2d Cir. 2010) the convictions constitute aggravated felonies.

Investigation in fingerprint analysis and comparison. Further, that individual concluded that the fingerprints from both dates were made by one in the same person.

4. On March 3, 2019, the defendant, SANTOS ANTONIO DIAZ GUEVARA, was arrested and fingerprinted in Nassau County, New York on charges of Operating a Motor Vehicle While Under the Influence of Alcohol. On May 20, 2019, DIAZ GUEVARA was convicted of Operating a Motor Vehicle While Under the Influence of Alcohol. Following DIAZ GUEVARA's arrest on March 3, 2019, his fingerprint impressions were taken. DIAZ GUEVARA's fingerprint impressions from his February 15, 2019 arrest were electronically submitted to certain law enforcement databases for comparison to the defendant's prior removal and conviction referenced above. Based on those comparisons, law enforcement determined that all of the above fingerprint impressions were made by one and the same individual.


5. A search of immigration records has revealed that there exists no request by the defendant for permission from either the United States Attorney General or the Secretary of the Department of Homeland Security to re-enter the United States after removal.

WHEREFORE, your deponent respectfully requests that the Court issue a warrant for the arrest of the defendant SANTOS ANTONIO DIAZ GUEVARA, so that he may be dealt with according to law.


KENNETH LOPEZ
Deportation Officer
United States Immigration and Customs
Enforcement

Sworn to before me this
10th day of July, 2019


/s/ Steven I. Locke

 Steven D. Locke
THE HONORABLE ~~A. KATHLEEN TOMLINSON~~
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK